

No. 14/13/87-6Lab/867.— In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Rohtak Central Co-operative Bank Ltd., Rohtak versus Raj Singh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ROHTAK.

Reference No. 6 of 1992

between

SHRI RAJ SINGH, S/O SHRI WAZIR SINGH, VILLAGE & P.O, EFADANI, TEHSIL JHAJJAR, DISTRICT ROHTAK

.. Workman

and

THE MANAGEMENT OF M/S THE ROHTAK CENTRAL CO-OPERATIVE BANK LTD., ROHTAK

Present :

Sh. V. S. Singal, A. R. for the workman.

Sh. Sunil Katyal, A. R. for the respondent.

AWARD

In exercise of the powers conferred by sub-clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 the Governor of Haryana referred the following dispute, between the parties, named above, to this court for adjudication,—vide Labour Department Endorsement No. SOV/Roh/132-91/3155—60, dated the 16th January, 1992:—

Whether the termination of services of Shri Raj Singh is justified and in order? If not, to what relief he is entitled?

2. The workman and the management were summoned, the workman appeared and filed the claim statement that he was working since 1st October, 1989 as a Secretary on *ad hoc* basis and since then the work and conduct of the workman was always quite satisfactory. The management terminated the services of the workman on dated 29th June, 1991 without assigning any reason or reasonable cause even though the service record of the workman was throughout good. The workman has completed more than 240 days in calendar months, therefore, he is entitled to be heard before giving any sort of punishment to him. Therefore, the above said termination is absolutely illegal, unwarranted, and against the principle of natural justice. No notice was given to the workman and no enquiry was held by the management and no charge-sheet was issued to the workman and no seniority list was displaced at the time of termination and notice was sent to the Government on the prescribed form and no retrenchment compensation was paid to the workman, therefore, the management have contravend Section 25-F of the I. D. Act and the mandatory provisions of Chapter 5-A of the I. D. Act were not complied with. Some junior persons are also working in the office of the management and has not adopted the procedure last come first go at the time of termination, therefore, the management contravend Section 25-G and H. of the I. D. Act., hence claim petition is file that he be reinstated with continuity of service and full back wages and also alongwith other statutory benefits.

3. The management has filed the written statement that the workman was retrenched in accordance with law after full compliance of Section 25-F of the I. D. Act; the workman was appointed as Secretary on *ad hoc* basis and given periodic extensions. The workman is indulging in deliberate falsehood and claim petition be dismissed with costs.

4. The replication was filed by the workman. On the pleadings of the parties, the following issues were framed:—

(1) As per terms of reference?

(2) Relief?

4. My findings on the above issues with reasons thereof are as under :—

Issue No. 1 :

5. The workman has come into witness box as WW-1 closed the evidence. The management has examined Shri Mehtab Singh as WW-1 and closed the evidence.

6. The first question to be decided is whether the applicant had worked for more than 240 days in a year or not. The applicant has alleged that he was working with the management since 1st October, 1989 as Secretary on *ad hoc* basis but the management terminated his services on 31st June, 1991. The written statement filed by the respondent is that the workman was retrenched in accordance with law after compliance of Section 25-F of the I. D. Act. and para No. 1 of the claim statement is admitted where in the applicant has stated that he worked for more than 240 days in a year with the respondent Bank. It is as proved, as admitted by the respondent that workman had worked for more than 240 days on *ad hoc* basis in 12 calendar months.

7. The stand of the respondent Bank is that the workman was retrenched in accordance with law after fully compliance of Section 25-F of the I. D. Act. The workman has made statement that he was not given any notice, notice pay, retrenchment compensation and after his removal new secretaries were also appointed and they are still working. The workman has admitted that he was initially appointed for 89 days and it was written in the letter that he could be removed from service at any time.

8. The appointment letter of the applicant is Mark-X. Which is photostat copy of the appointment letter and wherein it is mentioned that the applicant would have to furnish medical certificate from C.M.O., Rohtak alongwith cash security of Rs. 2,000 and tangible security Rs. 25,000. It is further given that the appointment of the applicant took place as Secretary on *ad hoc* basis not exceeding 89 days in the bank subject to the approval of Administrative Committee/Board. He was also appointed,—*vide* appointment letter dated 19th September, 1989.

9. Mark 'Y' is the photostate copy of the notice or retrenchment compensation of Raj Singh as Secretary and taking place on 22nd June, 1991 and he was paid salary in lieu of advance one month's notice of Rs. 800 and retrenchment compensation of 30 days at the rate of 15 days salary each year from 1st June, 1991 to 22nd June, 1991. But the applicant is not suggested that he was issued such type of notice the copy of which Mark 'Y'. There is no suggestion to workman no other person working as Secretary was appointed after his termination.

10. It is true that the workman was working on *ad hoc* basis but the High Court of Punjab and Haryana as held that *ad hoc* basis is nothing but regular service for purposes of I. D. Act when the applicant was appointed for 89 days and thereafter he was also appointed many period 1st October, 1989 to 22nd June, 1991, it is to mean that the management had given up the contention that the applicant still worked for 89 days as given up the services condition of the applicant that he worked for fix period. Mehtab Singh, MW-1 also admitted that the applicant was not given to any retrenchment compensation, notice pay or notice and as not opposed that any thing as laid down in Section 25-F of the I. D. Act was done in regards to applicant. MW-1 Mehtab Singh also admitted that the work and conduct of the applicant had been satisfactory and after removal of the applicant person was appointed in the year 1992 and the applicant was not called for interview. MW-2 Mehtab Singh admitted no notice or notice pay, retrenchment compensation etc. were given to the applicant before termination of services.

11. When the documents mark 'X' and 'Y' were produced and with it the original were also brought in the Court hence documents becomes admissible in evidence and hence it shall read as Ex. MX and EX. MY.

12. But when the management had never taken place and MW- Mehtab also admitted that compliance of Section 25-F of the I. D. Act was not made production of Ex. MX and MY i.e. no notice judicial can be made in arguments.

12. When the management had appointed other persons after retrenchment of the applicant, it is clear violation of principle laid down in the I. D. Act and preamble laid down in the I.D. Act. As that India is a poor Nation of the society. Government takes responsible that every person do work and the work and conduct of the applicant was satisfactory and to this effect removal from services amounts to retrenchment and this retrenchment is done not accordance with the I. D. Act. It is clear violation of provision of the I. D. Act, warranting that the applicant could remain in service.

13. For the above said reasons I am of the view that the reference is maintainable so I allow it and I decide this issue in favour of the workman.

Issue No. 2 (Relief):

14. In view of my findings on the above issue I accept the reference petition. I hold that the workman is entitled to work on the job with continuity of service and with 50% of back wages. However, the parties are left to bear their own costs. The reference is answered and returned accordingly.

The 18th October, 1994.

P. L. KHANDUJA,
Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

Endorsement No. 6-92/2722, dated the 27th October, 1994,

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh.

P. L. KHANDUJA,
Presiding Officer,
Industrial Tribunal/Labour Court,
Rohtak.

The 22nd November, 1994

No. 14/13/87-6 Lab./923.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s. Manager, HAU, Bawal *versus* Ram Pal.

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON

[Reference No. 387 of 89

between

RAM PAL, S/O SHRI HARI RAM, C/O SHRI SHARDHA NAND, GENERAL SECRETARY,
AITUC, OFFICE 214/4, MARLA GURGAON

and

THE MANAGEMENT OF M/S (1) MANAGER, HARYANA AGRICULTURAL
UNIVERSITY, BAWAL DISTRICT MOHINDERGARH

Present :

Shri Shardha Nand, for the workman.
Shri P. K. Gupta, for management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, (in short "the Act"), the Governor of Haryana referred the following dispute between the parties mentioned above, to this Court for adjudication,—*vide* Haryana Government, Labour Department, Endorsement No. 48163—68, dated 20th October, 1989 :—

Whether Ram Pal Baldar has taken his full and final account after abandonment of the job on his own or his services have been terminated ? to what relief is he entitled ? on the decision of this issue ?

2. The facts as contained in the claim statement are that the petitioner was appointed as Belder on 11th July, 1987 and was drawing a salary of Rs. 625 p. m. and his services were illegally terminated by the management on 30th June, 1989. No notice or compensation was paid and the petitioner, as sought his reinstatement with full back wages.

3. The management has controverted the claim in their written statement and it was pleaded that the workman was engaged in the month of July, 1987 and he had failed to come on duty in August, 1987. In September, he again came for work and worked upto March, 1988 and did not work from April, 1988 and during this span he had put in 87 days. The workman was again engaged in July, 1988 and he remained on the rolls upto September, 1988 and did not come for work in October. He was again engaged in November, 1988 and he left the job in December, 1988 and was again engaged in April, 1989 and worked till May, 1989 and did not work for a single day in June, 1989 and since he had not completed 240 days during the preceding year, he is not entitled to any relief.

4. On the pleadings, of the parties, following issues was framed on 13th July, 1990 :—

Whether Ram Pal Belder has taken his full and final account after abandonment of the job on his own or his services have been terminated? To what relief is he entitled on the decision of this issue?

5. I have heard authorised representatives of the parties and have gone through the evidence available on record. My findings on the issues is as under :—

6. The management has examined Brij Vir Singh, who had brought the record and deposed that the petitioner was employed as casual labour and the period he had put in had been given in the chart Ex-M-1, which had been prepared from the muster roll and since he had not completed 240 days, he was not entitled to any relief.

7. The petitioner has stepped in the witness box as WW1 and deposed that he was working with the management since 1987 and his services were illegally terminated on 30th June, 1989 and he was not paid any compensation and he had put in continuous service and had worked in different departments.

8. The management has placed on record Ex-M-1, which shows the number of days the petitioner had put in. According to it, the petitioner had worked for 53 days in the year 1987, 152 days in 1988, and 51 days in the year 1989. It also shows that there are gaps of nearly one to three months in between. It appears that the workman come for work when ever he felt like. Section 25.B defines continuous service and the case of the petitioner does not fall under it. The documentary evidence placed on record by the management shows that the petitioner did not work for a period of 240 days in any of the years. The petitioner in this case has failed to lead any evidence in order to shows that he had put in 240 days, in any of the years's. He did not even summon the record from the management in order, to justify his claim. The management was obliged to pay retrenchment compensation only if the petitioner had completed 240 days. Since, in this case petitioner had not put in continuous services of 240 days and had abandoned the job on his own, therefore, the management was not obliged to give any notice or reinstatement compensation and the petitioner Ram Pal is not entitled to any relief. Reference is answered accordingly, with no order as to costs.

Dated 6th October, 1994

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endorsment No. 1622, dated the 31st October, 1994.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh under section 15 of the Industrial Disputes Act, 1947.

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.